Appl. No. 10/088,432 Response dated July 8, 2004 Reply to Non-Final Office Action of March 9, 2004

REMARKS

Claims 13-31 are provisionally rejected under the judicially created doctrine of obviousness-type patenting over claims 18-26, 31 and 33-36 of Applicants' copending Application Serial No. 10/088,247. In response hereto, Applicants submit herewith a terminal disclaimer in compliance with 37 CFR 1.321(c). Accordingly, Applicants respectfully submit that this provisional rejection may now be withdrawn.

Applicants respectfully request reconsideration of the rejection of claims 13, 15-21 and 24-26 under 35 USC 103(a)as being obvious in view of Bernard et al. (US 6,274,364). No amendments have been made to the claims at this time for the reasons presented below. It is respectfully submitted that Bernard et al. do not disclose or teach compositions and processes for the treatment of hair.

Bernard et al. relate to the treatment of specifically to treatments for reducing intercorneccyte cohesion which, in turn, facilitates desquamination (please refer to col. 1, lines 19-20). The reference does not disclose or teach formulations for treating (specifically, restructuring) keratin fibers. Transglutaminase activity is specifically directed to the treatment of skin (please refer to col. 7, lines 4-16). Furthermore, while shampoos, dyeing formulations and hair restructuring lotions mentioned (col. 8, lines 15-24), it is only for the purpose of showing the different types of formulations into which 08-Jul-04 15:19

Appl. No. 10/088,432 Response dated July 8, 2004 Reply to Non-Final Office Action of March 9, 2004

the skin treatment compositions of Bernard et al. may be blended. The skin treatment formulations of the reference be blended with a variety of different cosmetic may treatments to facilitate application. The focus of the compositions and processes of Bernard et al. is not the treatment of keratin fibers, but rather skin. The teach that their patentees merely skin treatment formulation may be blended and applied with other cosmetic treatments, including hair care formulations. But, they do not disclose or teach that their formulations are useful for hair treatment.

respectfully requested Reconsideration iş rejection of claims 14, 21-23 and 27 under 35 USC 103(a) as being obvious over Bernard et al. ('364) in view Applicants respectfully McDevitt et al. (US 6,051,033). submit that this secondary reference fails to overcome the deficiencies of the primary reference. The objective of the formulations and methods of McDevitt et al. is to prevent shrinkage in wool and related animal hair fibers. It does not disclose, teach or even suggest that these formulations and methods may be used to restructure keratin fibers.

McDevitt et al. require a combination of two enzymes (kindly refer to col. 2, lines 46-47). The purpose of one of these enzymes, the proteolytic enzyme, is "for breaking down the surface structure [of the keratin fiber]" (please refer to col. 2, lines 49-50). The other enzyme, the transglutaminase, is to aid in the process of forming the amide bonds found in keratin fibers.

Appl. No. 10/088,432 Response dated July 8, 2004 Reply to Non-Final Office Action of March 9, 2004

contrast, the objective of the restructuring In compositions and processes of Applicants' claimed invention is to fortify or build up the keratin structure. "active substance having substrate activity for the enzyme (the transglutaminase)" is added to the keratin fiber in such a way that it forms "a kind of membrane around the 3, lines 8-14 ٥f {kindly refer to page Thus, filed). the two component specification, **2.5** composition of Applicants' claimed invention builds up, or "restructures" the keratin fibers. The two enzyme system of McDevitt et al. is not only different compositionally from Applicants' formulation, but it clearly is designed to achieve a different result.

With respect to the issue that has been pertaining to a distinction between calcium-dependent and calcium-independent transglutaminase, McDevitt et al. are However, it is respectfully silent on this point. submitted that in view of the differences already shown between both the Applicants' claimed invention and the '364 reference, this issue should be moot.

respectfully submitted that a process Ít 15 formulation directed at restructuring keratin clearly cannot be held as being obvious to one skilled in art over the combined teachings ٥f directed at the treatment of skin (Bernard et al.) and a preventing disclosure directed аt shrinkage (McDevitt et al.). There is no motivation to combine these Appl. No. 10/088,432

08-Jul-04 15:19

Response dated July 8, 2004

Reply to Non-Final Office Action of March 9, 2004

context of within the Applicants' claimed references invention.

CONCLUSION

αf the amendments and remarks In view Applicants ask for reconsideration and allowance of all Applicants further ask for extension of pending claims. the period for response to be extended one month to July 9, 2004 and authorize a charge to Deposit Account No. 01-1250 in the amount of \$ 110.00 for the extension fee. Order No. fees be due for entry and 04-0246. Should any consideration of this Amendment that have not accounted for, the Commissioner is authorized to charge them to Deposit Account No. 01-1250.

Respectfully submitted,

Hill (Reg. No. 31,369)

Attorney for Applicants

610-278-4964

GMH/img

Henkel Corporation Patent Law Department 2200 Renaissance Blvd., Suite 200 Gulph Mills, PA 19406